

Official Proceedings

October 6, 2009

8:00 am

Chairman Duane Wolf called the meeting of the Stark County Board of Commissioners to order. All members present.

Chairman Wolf asked for any additions or deletions to the agenda. Comm. Zander added Search Committee for Social Services Director. Comm. Hoff added Trans Canada Pipeline. Comm. Zander moved to approve the agenda. Comm. Elkin seconded. All voted Aye and the motion carried.

Comm. Hoff moved to approve the minutes with a correction made to the social service budget motion to include a second and the roll call vote from the September 15th, 2009 meeting. Comm. Elkin seconded. All voted Aye and the motion carried.

Comm. Elkin moved to approve the accounts payable plus the supplement. Comm. Hoff seconded. Roll call vote. All voted Aye and the motion carried.

General: Payroll: \$120,086.59; Linda L. Gingery: \$70.00; James Hope: \$403.50; Matthew Bender: \$43.10; SBAND: \$10.00; West Payment Center: \$101.36; Dakota Water Treatment: \$35.25; SBM Inc: \$646.78; Institute of Local Govt: \$100.00; Advanced Business Methods: \$1,533.70; Dakota Rubber Stamp: \$75.03; Service Printers: \$621.55; Xerox Corporation: \$372.56; Comfort Inn: \$236.00; B & M Security Inc: \$16.50; Bosch Lumber Co: \$234.00; Braun Distributing: \$819.42; Dickinson Heating: \$60.00; DJ's Tesoro: \$110.83; Duraclean Cleaning: \$1,218.00; Electric Sales & Service: \$195.98; ETSystems Inc: \$325.00; Floor To Ceiling: \$4.76; 4 Seasons Trophies: \$30.00; Jerome Distributing: \$81.25; Newby's Ace Hardware: \$90.85; Nitro-Green: \$232.00; Probuild: \$22.05; Runnings Supply: \$8.78; Superior Cleaners: \$55.00; Western Edge: \$312.15; City of Dickinson: \$9,167.65; MDU: \$1,935.46; Medcenter One Q & R Clinic: \$621.50; NDPers: \$13,180.89; Hann Law PLLC: \$202.50; Hardy Maus & Nordsven: \$679.50; Ottmar & Ottmar: \$258.75; Farmers Union Oil of Bis/Man: \$2,058.25; Tesoro: \$2,041.16; Visa: \$487.89; Alltel: \$712.58; Consolidated: \$502.68; Qwest: \$487.00; Raedeen Weinberger: \$37.11; George Kuchynski: \$16.00; Matthew Bender: \$14.36; Pitney Bowes Inc: \$687.36; Walmart Community: \$334.42; Jack's Family Restaurant: \$888.15; State Land Department: \$62.00; Dickinson Parks & Rec: \$66.56; NW Tire Inc: \$17.85; T-Rex Conoco Inc: \$292.18; Gladstone Inn: \$252.00; Rudy's Lock & Key: \$51.70; Dan's Body Shop: \$192.22; Dickinson Tire: \$659.44; Electronic Communications: \$6,730.30; Sax Motor Co: \$44.94; Sure Sign: \$120.00; Todd Weiler: \$60.00; Fastenal Company: \$81.29; Galls Inc: \$333.85; Humane Restraint: \$549.00; LEC Maintenance: \$7,098.73; American Bank Center: \$287.79; Dan's Supermarket: \$29.55; NDAOGPC: \$3,000.00;

10 Mill: Kadrmas Lee & Jackson: \$27,326.79; D & Z Fencing: \$4,125.00; Martin Construction: \$960.00; ND Dept of Transportation: \$42,409.82;

County Road: Kadrmas Lee & Jackson: \$24,182.16; Martin Construction: \$980.00; Northern Improvement: \$43,531.43; Alltel: \$88.14; City of Belfield: \$19.35; City of Dickinson: \$60.99; City of Richardton: \$54.90; Consolidated: \$32.81; MDU: \$391.90; Qwest: \$54.52; Roughrider Electric: \$701.00; Southwest Water Authority: \$43.66; Acme Electric Company: \$16.99; Braun Distributing: \$40.50; Carquest Auto Parts: \$37.79; Country Drug Store: \$25.41; Dakota Filter Supply: \$103.88; Fastenal Company: \$58.83; GA Sadowsky & Son: \$506.21; Rummel Auto Wrecking: \$205.80; Runnings Supply: \$78.34; Service Printers: \$293.85; Walmart Community: \$147.66; Boespflug Trailers: \$70.60; George's Tire Shop: \$660.00; JP Steel & Supply: \$44.24; NW Tire Inc: \$719.96; Ray's Auto Electric: \$418.90; Sax Motor Co: \$427.39; Schmidt Repair Inc: \$504.44; Western Fire & Safety: \$99.45; Basin Hydraulic: \$616.88; Berger Electric: \$40.17; Butler Machinery: \$339.70; Dakota Farm Equipment: \$808.82; Dan's Body Shop: \$54.00; Dickinson Tire: \$419.98; Midwest Auto Glass: \$55.00; Miller Machine: \$16.00; Prairie Implement: \$1,029.01; RDO Equipment Co: \$220.62; Todd's Auto: \$70.00; West Plains Inc: \$1,344.86; Missouri Valley Petroleum: \$2,223.00; Southwest Grain: \$14,308.32; West Dakota Oil: \$1,565.28; Berger Electric: \$42.00; Lomco Inc: \$1,880.00; Pump Systems Inc: \$32.61; Johnston Fargo Culverts: \$1,389.03; Husky Oil Market: \$6,473.31; Trimac Transport: \$2,372.00; South Dakota LTAP: \$280.00; Ed Schmidt: \$250.00; Payroll: \$172.08;

Highway Tax Distribution: Payroll: \$64,401.97; NDPers: \$14,930.34;

Social Welfare: Division of Vital Statistics: \$14.00; Secretary of State: \$36.00; Debra Trytten: \$94.47; ND Dept of Human Services: \$441.08; Payroll: \$163,717.34; NDPers: \$38,769.85; Social Services: \$21,884.84;

County Poor: ND Dept of Human Services: \$27,763.59;

IT – Computer/Updates: NDACO Resources: \$299.00; Payroll: \$4,410.00; NDPers: \$1,178.33; American Bank Center: \$317.73; Alltel: \$21.96; Consolidated: \$155.30; CDW Government Inc: \$659.33; ESP Computers: \$59.90; Newby's Ace Hardware: \$75.44; SBM Inc: \$1,220.96; Consolidated: \$19.95; Information Technology Dept: \$1,266.40;

Capital Improvement: Dan Porter Motors: \$18,899.00;

Fair Board: Stark County Fair Board: \$513.95;

County Jail: Burleigh County: \$600.00; SWMCCC: \$55,283.73; St Joseph's Hospital: \$89.00;

Insurance: American Insurance Center: \$172.00;

Comp Health: Blue Cross Blue Shield: \$144.80; NDPers: \$18,294.52;

VSO Fund: Payroll: \$5,784.26; Leslie Ross: \$229.48; SBM Inc: \$6.29; Walmart Community: \$8.09;

Social Security: American Bank Center: \$25,457.02;

County Agent: Payroll: \$3,955.17; NDPers: \$371.15; NDSU Extension Service: \$14,409.21; Kurt Froelich: \$30.00; Samantha Roth: \$30.00; Consolidated: \$149.93; SBM Inc: \$485.23; Advanced Business Methods: \$1,268.99; Ag Communication: \$178.00; Deb Theurer: \$100.00;

Weed Control: Payroll: \$8,183.85; NDPers: \$2,043.57; Alltel: \$21.96; Walmart Community: \$15.70; Reliable: \$31.98; Quality Quick Print: \$35.00; Sample Auto Sales: \$1,605.92; Gempler's: \$18.85; American Bank Center: \$130.05;

9-1-1: Payroll: \$5,301.24; NDPers: \$1,728.24; American Bank Center: \$359.25; City of Dickinson: \$6,842.91; Inventory Trading Center: \$129.00; Logo Magic Inc: \$92.00; Qwest: \$1,605.92; Consolidated: \$571.00; Reservation Telephone: \$80.00; NDACO: \$2,192.02; Logo magic Inc: \$25.00;

Adult Education: Ag Communication: \$33.00; Walmart Community: \$5.82;

Domestic Violence: State Treasurer: \$735.00;

Homeland Security Grant: Denny's Electric: \$2,816.41;

Traf Safety Grant: Payroll: \$1,189.50;

SW Victim Witness Program: Payroll: \$4,470.90; Radisson Hotel Bismarck: \$126.00; SBM Inc: \$69.49; Alltel: \$38.59; Consolidated: \$4.08; American Bank Center: \$281.73; NDPers: \$674.21

Hazardous Chemical Prep: Mulligan's Catering: \$1,500.00; Visa: \$10.73;

Domestic Violence Rape Crisis Center: Domestic Violence: \$610.00;

Preservation Fee: Cass County Treasurer: \$1,182.00; Underground Vaults: \$4.00;

State Reimbursements: Jason Rambousek: \$25.00; Justin Krohmer: \$25.00; Corey Lee: \$25.00; Travis Leintz: \$25.00; Ralph Poikus: \$25.00; Mike Hanel: \$25.00;

Siren Contingency: Roughrider Electric: \$172.00;

Other Reimbursements: Best Western Doublewood Inn: \$126.00; Dan's Body Shop: \$198.48; Dickinson Press: \$60.63; Consolidated: \$178.19;

Judgment Execution: Credit Bureau of Bismarck: \$673.84; Stark County Sheriff Dept: \$140.00;

Todd Miller, Richardton Crew Leader, presented a GPS/GIS slide show on the goals and objectives for Stark County's infrastructure.

Sheriff Tuhy gave an update on the task force and monthly transports.

Sheriff Tuhy presented a NDDOT in-car video cameras grant for \$8,000 and a NDDOT alcohol enforcement grant for \$9,000. Comm. Hoff moved to authorize the Chairman sign the grants. Comm. Kuntz seconded. Roll call vote. All voted Aye and the motion carried.

Neal Messer, on behalf of GTL Energy, spoke in favor of the zoning ordinance change. The plant facility will be used for the processing and beneficiation of coal.

Mr. Maus, Attorney for GTL Energy, reported on the four conditions attached to the special permit. First, all the required permits have been issued by the state department. See attached list. Second, public information meetings were held in South Heart. Third, a road agreement with Stark County has been approved and signed. Fourth, State's Attorney Tom Henning is to review the application to make sure it complies with all county ordinances.

Mary Hodell with Neighbors United spoke against the zoning ordinance change.

Comm. Hoff presented a recommendation from the Zoning Board to grant GTL Energy's request to amend zoning. Comm. Hoff moved to grant GTL Energy's request to amend zoning from agricultural to industrial with a special use permit with the four following conditions:

1. The company obtain all required approval permits from state agencies.
2. The company hold public information meetings in South Heart.
3. GTL Energy agree in writing to complete all roads as required by Stark County.
4. State's Attorney Tom Henning review the application to make sure it complies with all county ordinances.

The parcel is located in the SW4 of the NW4 of Section 20, Township 139 North, Range 98 West. Discussion was held. The Commission reviewed and agreed all conditions have been met. All necessary permits have been granted. The public information meeting was held October 16, 2008 at the Pheasant Country Golf Course in South Heart. A road agreement between GTL Energy and Stark County was signed May 6, 2009. The agreement will be updated and resigned. State's Attorney Tom Henning will review the application for compliance. Comm. Elkin seconded. Roll call vote. All voted Aye and the motion carried.

Al Heiser, Road Superintendent, asked for direction regarding installation of culverts for a drainage issue on 28th Avenue Southwest. Culverts will be installed on the county's right-of-way to resolve the problem.

Al Heiser, Road Superintendent, reported a request by Bruce Krank for a road on a section line on the north side of Antelope Creek. The Board requested the road must meet all county specifications.

Al Heiser, Road Superintendent, requested out-of-state travel to South Dakota. Comm. Hoff moved to approve out-of-state travel to South Dakota. Comm. Zander seconded. All voted Aye and the motion carried.

Tim Kelly, Kadrmas Lee & Jackson, gave the engineer's report. Mr. Kelly reported that a meeting has been set up at the annual conference with the DOT on Monday October 12, 2009, at 11:00 A.M. Central Time.

Diane Brines, Tax Director, discussed the residential exemption law change. New guidelines have been set, see N.D.C.C. 57-02-08(35) and N.D.C.C. 57-02-08(42).

Comm. Zander reported the Search Committee for a Social Service Director met with the State Human Resource Department. A job description has been put together for a Social Service Director and the position has been advertised.

State's Attorney Tom Henning reported on Dakota Resource Council vs. Stark County Board of County Commissioners. On October 8, 2009 the Court entered Judgment in which it ordered and adjudged that the zoning amendment and special use permit granted to GTL Energy and filed on September 8, 2009 by the Stark County Auditor was reversed and vacated. DRC I has been awarded disbursements in the amount of \$535.60 and nominal attorneys' fees in the amount of \$500.00. DRC II has been awarded disbursements in the amount of \$2,337.80 and nominal attorneys' fees in the amount of \$500.00. Findings will be prepared to support today's action.

Comm. Hoff reported that Trans Canada Pipeline will be covering approximately seven miles in the southeast part of the county and will be crossing three major roads.

Chairman Wolf opened the Public Hearing on the Stark County 2010 budget. Chairman Wolf reported the salary issue for regular county employees has been reconsidered due to the inequities of new employees to employees that have been employed for some time. The change would be 4% across the board, rather than the \$100 per month. Comm. Elkin made a motion to approve the 4% for regular county employees. Comm. Kuntz seconded. Roll call vote. All voted Aye and the motion carried. Chairman Wolf asked if anyone was present to speak for or against the 2010 budget. Chairman Wolf closed the Public Hearing. Comm. Kuntz moved to approve the Stark County 2010 budget with the salary change. Comm. Elkin seconded. Roll call vote. All voted Aye and the motion carried.

The following **Miscellaneous Receipts** were filed: General: \$98,872.86; 10 Mill: \$15,092.36; County Road: \$102,559.61; Highway Tax Distribution: \$185,250.23; Special Road & Bridge: \$4,534.38; Social Services: \$91,353.37; County Poor: \$63,147.84; IT-Computer/Updates: \$851.15; Capital Improvement: \$50,241.67; County Park: \$1,574.49; Fair Association: \$40.00; County Jail: \$11,513.76; Insurance: \$4,633.38; Comp Health: \$6,290.33; Emergency Fund: \$1,511.46; Veteran's Service Office: \$2,000.46; Social Security: \$14,990.92; Advertising: \$777.96; County Agent: \$3,671.92; Weed Control: \$2,622.82; 911 Revenue: \$22,055.86; Adult Education: \$30.00; Fingerprint Station: \$80.00; Domestic Violence: \$490.00; Homeland Security: \$2,816.41; Traf Safety Grant: \$1,737.37; Estimate Tax: \$20,041.02; Game and Fish: \$40,429.00; SW Victim Witness Program: \$10,209.13; Domestic Violence Rape Crisis Center: \$610.00; Preservation Fee: \$2,247.00; State Reimbursement: \$720.00; Other Reimbursements: \$3,547.46; Judgment Execution Revenue: \$813.84; 911 Equipment: \$7,351.94;

Comm. Zander moved to adjourn. Comm. Hoff seconded.

Alice Schulz, Auditor

Duane A. Wolf, Chairman

BEFORE THE STARK COUNTY COMMISSION

FINDINGS ON APPLICATION OF GTL ENERGY, LLC., FOR ZONING AMENDMENT

This matter came before the Stark County Commission upon the application of GTL Energy LLC., for the amendment of zoning of the SW1/4 of the NW1/4 of Section 20, Township 139 North, Range 98 West from agricultural to industrial with a Special Use Permit for a coal processing plant. Said application was considered on October 6, 2009, at the regularly scheduled Stark County Commission Meeting. The Stark County Commission makes the following Findings:

I.

That a public hearing was held on October 5, 2009, and, following said hearing, the Zoning Commission Chairman, Stark County Commissioner Russell Hoff, forwarded the unanimous recommendation of the Zoning Commission to approve the application upon conditions that: 1) the applicant maintain its operation so as to stay within state and local emissions laws, particularly for air and water, 2) that the applicant provide information to the public concerning the nature of their plant, its operation and the company's plans through public forum meetings and 3) that the applicant enter into a written road agreement with Stark County to insure the maintenance, construction, or re-construction of county roads in the area of said plant so as to continue to foster good travel conditions on the impacted roads.

II.

That the comprehensive plan for Stark County Zoning recognizes the presence of large bodies of lignite coal throughout the Stark County area.

III.

That a significant body of lignite coal exists in the South Heart area.

IV.

That the applicant wishes to build and operate an experimental coal processing plant for the purpose of drying lignite and/or other low quality coal.

V.

That the process is one in which lignite or other low grade coal will be dried down and otherwise processed so as to increase its value by increasing the heat calorie content of the processed coal thereby rendering said coal more valuable and more marketable.

VI.

That the proposed location has good access to transportation, both Interstate 94 and other good county roads, and railroad transportation and is also very near high voltage electrical transmitting lines, giving it very good access to electrical power. All of these things are highly necessary for the purposes of the proposed plant.

VII.

That GTL Energy, LLC., has obtained all the necessary permits and approvals from the State of North Dakota for the operation of the proposed facility and, according to studies by various state agencies, the plant will make no significant contributions of any pollutants to the area, air or water born.

VIII.

That said proposed plant will create approximately 40 additional jobs in the area.

IX.

That the proposed location will neither infringe upon nor hinder the primary economic function in the area, that being agriculture, since it is situated such that it will not interfere with ordinary agricultural operations.

X.

That the proposed plant will have no detrimental effects on the health or welfare of the citizens of Stark County.

XI.

That the applicant has conducted public forums to present information to the public and the applicant has entered into a written road agreement with Stark County.

XII.

That a motion was made to approve the application for amendment by GTL Energy, LLC. upon the recommended conditions that: 1) the applicant maintain its operation so as to stay within state and local emissions laws, particularly for air and water, 2) that the applicant provide information to the public concerning the nature of their plant, its operation and the company's plans through public forum meetings and 3) that the applicant enter into a written road agreement with Stark County to insure the maintenance, construction, or re-construction of county roads in the area of said plant so as to continue to foster good travel conditions on the impacted roads. Said motion was passed by the Stark County Commission unanimously with all commissioners in attendance with their votes as follows:

Russ Hoff	-	Aye
Jay Elkin	-	Aye
Ken Zander	-	Aye
Pete Kuntz	-	Aye
Duane Wolf	-	Aye

Dated this _____ day of October, 2009, at Dickinson, North Dakota.

Duane Wolf
Chairman of the Stark County Commission

Attest:

Stark County Auditor

GTLE Dakota Plant 1 LLC - Statutory Compliance
Confidential

Summary of Permits Required and Obtained			
Relevant Permit/Compliance	Jurisdiction	Date	STATUS
Zoning Change and Special Use Permit	Planning and Zoning Board	25-Aug-08	Recommended by Zoning Board #1
Zoning Change and Special Use Permit	Stark County Commissioners	02-Sep-08	Approved by Commissioners #1
Storm Water Permit for construction activity	NDDH - Environmental Health Section	09-Sep-08	Granted & Renewed 30 Sep 09
Building Permit - PLANT	City of Dickinson	13-Oct-08	Granted
Temporary Water Permit	ND State Water Commission	15-Oct-08	Granted
Coal Conversion Facilities Privilege Tax	Office of State Tax Commissioner	29-Nov-08	Exemption Granted
Sales Tax Manufacturing Exemption	Office of State Tax Commissioner	03-Dec-08	Exemption Granted
Air Permit	NDDH - Division of Air Quality	19-Jun-09	Granted
Building Permit - OFFICE	City of Dickinson	26-Jun-09	Granted
Zoning Change and Special Use Permit	Planning and Zoning Board	05-Oct-09	Recommended by Zoning Board #2
Zoning Change and Special Use Permit	Stark County Commissioners	06-Oct-09	PENDING

Summary of Permits Not Required			
Relevant Permit/Compliance	Jurisdiction	Date	STATUS
Energy Conversion Facility Siting	PSC	31-Jul-08	Jurisdictional Determination that GTL is not an Energy Conversion Facility
Surface Use Mining Permit	PSC	05-Aug-08	Jurisdictional Determination that GTL does not require a Surface Use Mining Permit
Water Storage Permit (Dam)	Office of the State Engineer - Water Appropriation	24-Sep-08	Determination that no permit required
Water & Solid Waste Permit	NDDH - Division of Waste Management and Water Quality	27-Apr-09	Determination no permit required

Summary of Conditions Satisfied			
Relevant Permit/Compliance	Jurisdiction	Date	CONDITION SATISFIED
1. Get Approvals / Permits from State Agencies	Stark County Commissioners	Various	All Obtained See Above - In particular the Air Permit
2. Hold Information Meeting in South Heart	Stark County Commissioners	16-Oct-08	Meeting Held - Questions submitted in advance were addressed (30+ attendees)
3. Sign Road Agreement with County	Stark County Commissioners	06-May-09	Road Agreement Signed and approved by County Commissioners
4. State Attorney Review	Stark County Commissioners	Hennings?	GTL Requested on 24 June 2009 by letter from Mike Maus. Out of GTL Control.